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3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 RAYNE DEE WELLS JR.,

7 Plaintiff,

8 v.

9 ELDON VAIL, *et al*,

10 Defendants.

Case No. C09-5324 FDB


ORDER ADOPTING REPORT
AND RECOMMENDATION
DISMISSING FRIVOLOUS
COMPLAINT PURSUANT TO
28 U.S.C. § 1915

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12 The Magistrate Judge recommends that this civil rights complaint be dismissed as failing to state a
13 cognizable claim. Plaintiff has filed objections asserting he has an Eighth Amendment claim. As detailed
14 in the Report and Recommendation, Plaintiff has been given the opportunity to cure the deficiencies in his
15 original complaint, and his amended complaint remains similarly deficient.

16 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L.
17 Strombom, and the remaining record, does hereby find and ORDER:

- 18 (1) The Court adopts the Report and Recommendation;
19 (2) Plaintiff's amended complaint is DISMISSED;
20 (3) The Clerk is directed to terminate this action pursuant to 28 U.S.C. § 1915(e) and to count
21 this as a dismissal under 28 U.S.C. § 1915(g); and
22 (4) The Clerk is directed to send copies of this Order to plaintiff and to the Hon. Karen L.
23 Strombom.

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25 DATED this 13th day of October, 2009.

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28 FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE